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10/040,611	01/09/2002	Thomas E. Pank		2664

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William D. Hall, Esq.
10850 Stanmore Drive
Potomac, MD 20854

EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 09/05/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

040611

Applicant(s)

P. n. h.

Examiner

Up. m.

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 21, 23-31, 33-36, and 39-63 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 21, 23-31 is/are allowed.
- ☒ Claim(s) 39, 40, 43, 45, 46, 48-52, 55, and 57-63 is/are rejected.
- ☒ Claim(s) 41, 42, 44, 47, 53, 54, and 56 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Part of Paper No. 9

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 57-63 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not appear to describe an embodiment having a first filtering media having two sides, with a second filter medium on one side, a third filter medium on the other, four porous barriers covering the sides of the filter media,

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and first and second drains receiving fluid from the second and third filter media via the third and fourth porous barriers.

3. Claims 57-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 57, lines 11-12 recite a filtering media covering the second face of the second barrier. This appears to be the same as the third filtering media, recited in lines 17-18.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of claims 57-63 must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

5. Claims 39, 40, 43, 45, 46, 49, 51 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Lenhart Jr. et al.

Lenhart discloses a filter having two concentric layers of filter material separated by porous sidewalls and having a drain, as claimed.

6. Claims 48 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart in view of Knutson.

Claims 48 and 55 differ from Lenhart in recitation of a reservoir with an overflow outlet. While not shown in Lenhart, it is submitted that Lenhart discloses

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the use of the filters in the system of Knutson (see column 5, lines 23-26), which discloses such structure, and therefore obviously would be used in such an arrangement.

7. Claims 40, 43, 45, 46, 48, 51, 52 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Fleischmann.

Fleischmann discloses a filter having two concentric layers of filter material separated by porous sidewalls and having a drain, with a reservoir and an overflow, as claimed.

8. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart or Fleischmann.

Claim 50 differs from Lenhart and Fleischmann in recitation of the porous barriers being geotextile. It is submitted that the use of geotextile, a known material, would have been an obvious choice for the porous barriers of Lenhart or Fleischmann, due to the disclosures that a variety of materials may be used (see column 3, lines 43-44 of Fleischmann and column 6, lines 7-10 of Lenhart).

9. Claims 21, 23-31 and 33-36 are allowed.

10. Claims 41 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The recitation of a filter having a plurality of cells, each having two layers of filter material separated by porous sidewalls and having a drain, where one cell completely surrounds another cell patentably distinguishes over the prior art of record.

11. Claims 44 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The recitation of a filter having two concentric layers of filter material separated by porous sidewalls and having a drain, wherein the drain surrounds the filter layers patentably distinguishes over the prior art of record.

12. Claims 53, 54 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The recitation of a filter having two concentric layers of filter material separated by porous sidewalls and having a drain, wherein the first filter media is two sided and has the second filtering media extending along both sides patentably distinguishes over the prior art of record.

13. Claims 57-63 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

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The recitation of a filter having a first filtering media having two sides, with a second filter medium on one side, a third filter medium on the other, four porous barriers covering the sides of the filter media, and first and second drains receiving fluid from the second and third filter media via the third and fourth porous barriers patentably distinguishes over the prior art of record.

14. Applicant's arguments with respect to claims 40, 43, 45, 46, 48, 49-52 and 55 have been considered but are moot in view of the new ground(s) of rejection.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

Serial No. 040611

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16. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' or 'C.U.' with a stylized flourish.

CHRISTOPHER UPTON
PRIMARY EXAMINER